

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHERYL BRENNER, et al.,

Plaintiffs,

vs.

Civ. No. 00-1091 PJK/WWD ACE

RAN KEN, INC., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon the Motion to Quash Subpoena and for Protective Order (doc # 116) filed by Defendant Terry McDaniel on April 27, 2001. It is uncontested that no prior notice was served on each party as required by Fed. R. Civ. Proc. 45(b)(1). Plaintiff argues that any problem with notice has been cured since defendants did eventually learn of the subpoena and were served with a copy of it. I disagree. The purpose of the provision requiring notice of the service of such a subpoena on a third party, is to give the defendants time to respond if they feel that a response is necessary. Additionally, the materials sought by the subpoena are remote in time to the matters before the Court in this lawsuit, and their probative value for any purpose is minimal.

WHEREFORE,

IT IS ORDERED that Defendant Terry McDaniel's Motion to Quash Subpoena and for Protective Order is granted, and the Subpoena heretofore served on McDaniel's current employer, Universal Compression Inc., is Quashed.


UNITED STATES MAGISTRATE JUDGE